



**DEPARTMENT OF DEFENSE**

**Billing Code 5001-06**

**Office of the Secretary**

**32 CFR Part 226**

**DOD-2012-OS-0041**

**RIN 0790-AI88**

**Shelter for the Homeless**

**AGENCY:** Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

**ACTION:** Direct final rule with request for comments.

**SUMMARY:** The Department of Defense is updating current policies and procedures for the Defense Shelter for the Homeless Program. This direct final rule makes nonsubstantive changes to the existing rule for this program. The amendments correct the authority citation throughout the text, update organizational titles, and move procedures from the policy section into a separate procedures section. This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

**DATES:** The rule is effective on [INSERT DATE 70 DAYS AFTER THE DATE OF PUBLICATION IN FEDERAL REGISTER], unless comments are received that would result in a contrary determination. Comments will be accepted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350-3100.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy Wagner, 703-571-9081.

**SUPPLEMENTARY INFORMATION:**

**Direct Final Rule and Significant Adverse Comments**

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves nonsubstantive changes dealing with DoD's management of its Shelter for the Homeless Program. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule with publication in the Federal Register. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

## **Executive Summary**

### **I. Purpose of the Regulatory Action**

- a. The Department of Defense is updating current policies and procedures for the Defense Shelter for the Homeless Program.
- b. 10 U.S.C. 2556.

### **II. Summary of the Major Provisions of the Regulatory Action in Question**

The amendments correct the authority citation throughout the text, update organizational titles, and move procedures from the policy section into a separate procedures section.

### **III. Costs and Benefits**

There is no cost to the public. The costs to the Department of Defense for implementation of the authorities under this rule will include the administrative costs to process a request and the cost of the services provided incident to the furnishing of a shelter. The benefit is that homeless individuals will have shelter.

## **Regulatory Procedures**

### **Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”**

It has been certified that 32 CFR part 226 does not:

- 1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or state, local, or tribal governments or communities;
- 2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

- 3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- 4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

**Sec. 202, Pub. L. 104-4, "Unfunded Mandates Reform Act"**

It has been certified that 32 CFR part 226 does not contain a Federal mandate that may result in the expenditure by state, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that 32 CFR part 226 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that this amendment rule for 32 CFR part 226 does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995

**Executive Order 13132, "Federalism"**

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- 1) The States;
- 2) The relationship between the National Government and the States; or
- 3) The distribution of power and responsibilities among the various levels of government.

**List of Subjects in 32 CFR Part 226**

Armed forces, Federal buildings and facilities, Homeless, Intergovernmental relations

Accordingly, 32 CFR part 226 is amended as follows.

**PART 226 - AMENDED**

1. The authority citation for Part 226 is revised to read as follows:

Authority: 10 U.S.C. 2556

2. Section 226.1 is revised to read as follows:

**§ 226.1 Purpose.**

This part implements 10 U.S.C. 2556 by establishing DoD policy, assigning responsibilities, and prescribing procedures for providing shelter for the homeless on military installations.

**§ 226.5 [Removed]**

3. Remove § 226.5.

**§§ 226.3 and 226.4 [Redesignated as §§ 226.4 and 226.5]**

4. Redesignate §§ 226.3 and 226.4 as §§ 226.4 and 226.5 respectively.

5. Newly redesignated 226.4 is amended:

- a. By revising the section heading;

- b. By adding introductory text;;

- c. By revising paragraph (a);

- d. In paragraph (b) by revising “10 U.S.C. 2546” to read “10 U.S.C.2556”;

- e. In paragraph (c) by removing from the second sentence “under the Shelter for the Homeless Program” and adding in its place “by this program” and adding a third sentence;

- f. In paragraph (d) introductory text by revising “10 U.S.C. 2546” to read “10 U.S.C.2556”; and

- g. In paragraph (d)(6) by revising “10 U.S.C. 2546” to read “10 U.S.C.2556” and removing “and this part” from the end of the paragraph.

The revisions and addition read as follows:

**§ 226.4 Procedures.**

It is DoD policy that:

(a) Shelters for the homeless may be established on military installations.

\* \* \* \* \*

(c) \* \* \* Shelter and incidental services provided under this part may be provided without reimbursement.

\* \* \* \* \*

6. Amend newly redesignated § 226.5:

- a. By revising paragraph (a);
- b. In paragraph (b) by revising “Assistance Secretary” to read “Under Secretary”;
- c. By revising paragraph (c)(2);
- d. In paragraph (c)(4) by removing “Shelter for the Homeless” and revising “10 U.S.C. 2546 and this part” to read “10 U.S.C. 2556”; and
- e. In paragraph (d)(3) by revising “DASD(I)” to read “DUSD(I&E)”.

The revisions read as follows:

**§ 226.5 Responsibilities.**

(a) The Deputy Under Secretary of Defense (Installations and Environment) (DUSD(I&E)), under the authority, direction and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall administer the program and issue such supplemental guidance as is necessary.

\* \* \* \* \*

(c) \* \* \*

(2) Appoint a senior manager to monitor the program within the Department and to provide any assistance that may be required to the Office of the Deputy Under Secretary of Defense (Installations and Environment) (ODUSD(I&E)). Such official, after consultation with the ODUSD(I&E), shall approve or disapprove all requests to establish a shelter in accordance with 10 U.S.C. 2556 and this part.

\* \* \* \* \*

DATED: February 1, 2013.

PATRICIA L. TOPPINGS

OSD Federal Register Liaison Officer

Department of Defense

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